

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

David G. Mangold

DEFENDANTS

Peco Energy

(b) County of Residence of First Listed Plaintiff Milwaukee County, WI

(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

(c) Attorneys (Firm Name, Address, and Telephone Number)

Mark S. Scheffer, Law Offices of Mark S. Scheffer, P.O. Box 111, Birchrunville, PA 19421, 610-915-8351

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|-----------------------------------------|----------------------------|----------------------------|---------------------------------------------------------------|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: Nature of Suit Code Descriptions.

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

42 U.S.C. Section 1981

Brief description of cause; employment discrimination

VII. REQUESTED IN COMPLAINT:☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

12/16/2019

SIGNATURE OF ATTORNEY OF RECORD

Mark S. Scheffer

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CASE MANAGEMENT TRACK DESIGNATION FORM

DAVIN G. MANGOLD

CIVIL ACTION

v.

Pec. Energy

NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a case management track designation form specifying the track to which that defendant believes the case should be assigned.

SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:

- (a) Habeas Corpus – Cases brought under 28 U.S.C. §2241 through §2255. ()
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits ()
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. ()
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ()
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ()
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ☒

12/16/2019

Date _____

Wm. S. Kell

Attorney-at-law

Mark S. Scheffer

Attorney for **Plaintiff**

610-915-8351

Telephone**FAX Number**

Marleschoffce@gmail.com

E-Mail Address

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

DESIGNATION FORM

(to be used by counsel or pro se plaintiff to indicate the category of the case for the purpose of assignment to the appropriate calendar)

Address of Plaintiff: 985 W Morgan Ave, Milwaukee, WI 53221

Address of Defendant: 2301 W. Market St., Philadelphia, PA 19103

Place of Accident, Incident or Transaction: Philadelphia, PA

RELATED CASE, IF ANY:

Case Number: _____ Judge: _____ Date Terminated: _____

Civil cases are deemed related when **Yes** is answered to any of the following questions:

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------|----------------------------------------|
| 1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action of this court? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |
| 4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> |

I certify that, to my knowledge, the within case ☐ is / ☒ is not related to any case now pending or within one year previously terminated action in this court except as noted above.DATE: 12/16/2019

Attorney-at-Law / Pro Se Plaintiff

59271

Attorney I.D. # (if applicable)

CIVIL: (Place a ☒ in one category only)

A. Federal Question Cases:

- ☐ 1. Indemnity Contract, Marine Contract, and All Other Contracts
- ☐ 2. FELA
- ☐ 3. Jones Act-Personal Injury
- ☐ 4. Antitrust
- ☐ 5. Patent
- ☐ 6. Labor-Management Relations
- ☒ 7. Civil Rights
- ☐ 8. Habeas Corpus
- ☐ 9. Securities Act(s) Cases
- ☐ 10. Social Security Review Cases
- ☐ 11. All other Federal Question Cases

(Please specify): _____

B. Diversity Jurisdiction Cases:

- ☐ 1. Insurance Contract and Other Contracts
- ☐ 2. Airplane Personal Injury
- ☐ 3. Assault, Defamation
- ☐ 4. Marine Personal Injury
- ☐ 5. Motor Vehicle Personal Injury
- ☐ 6. Other Personal Injury (Please specify): _____
- ☐ 7. Products Liability
- ☐ 8. Products Liability - Asbestos
- ☐ 9. All other Diversity Cases

(Please specify): _____

ARBITRATION CERTIFICATION

(The effect of this certification is to remove the case from eligibility for arbitration.)

I, Mark S. Scheffer, counsel of record or pro se plaintiff, do hereby certify:☐ Pursuant to Local Civil Rule 53.2, § 3(c) (2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;☒ Relief other than monetary damages is sought.DATE: 12/16/2019

Attorney-at-Law / Pro Se Plaintiff

59271

Attorney I.D. # (if applicable)

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

Mark S. Scheffer, Esquire
LAW OFFICES OF MARK S. SCHEFFER
Identification Nos. 59271
P.O. Box 111
Birchrunville, PA 19421
(610) 915-8351

Attorney for Plaintiff

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

DAVID G. MANGOLD	:	CIVIL ACTION
	:	
v.	:	NO.
	:	
PECO ENERGY	:	JURY TRIAL DEMANDED

COMPLAINT

1. Plaintiff, David G. Mangold, is a white male and citizen of the United States of America.
2. Plaintiff, at all relevant times, was employed by Defendant as a Senior Business Analyst, and had been working with Defendant as a contractor since and as a full-time employee working for Defendant in its Philadelphia, PA office since 2015.
3. Defendant, Peco Energy, is an energy services company with its primary office located at 2301 Market Street, Philadelphia, PA 19101. It is a subsidiary of Exelon Corporation, which is headquartered in Chicago and has Chris Crane as its President and CEO.
4. Plaintiff asserts causes of action herein under 42 U.S.C. §1981 (“§1981”), Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. §2000e *et seq.*, and the Pennsylvania Human Relations Act, as amended, 43 P.S. §951 *et seq.* (“PHRA”).
5. The District Court has jurisdiction over this action pursuant to 28 U.S.C. §§1331, 1343 and 1367.
6. On or about September 21, 2018 Plaintiff filed a charge of gender and race

discrimination with the United States Equal Employment Opportunity Commission (“EEOC”). This charge was amended by Plaintiff on or about December 22, 2018.

7. Plaintiff requested that his charge be dual-filed with the applicable local agency, the Philadelphia Commission on Human Relations, to preserve his rights under the PHRA.

8. On September 18, 2019 the EEOC issued a Dismissal and Notice of Right to Sue on Plaintiff’s charge.

9. On or about January of 2016, Defendant implemented a program called Accelerated Workplace Diversification (“AWD”). The goal of AWD was to increase the “diversity” of Defendant’s workforce by 7% between 2016 and 2020. Under AWD, only white males were not considered “diverse.”

10. According the to AWD, Defendant’s recruiters for employment were required to take consideration of the race and ethnicity of an applicant during the hiring process. Additionally, Defendant required all of its Vice Presidents to achieve the AWD diversity goal, and indicated that monetary penalties would result if the diversity goal were not met.

11. To achieve the AWD goal, Defendant would not only have to accelerate hiring of minority and female employees (over 70% of all external hires would have to be diverse candidates) but would also need to eliminate white male employees from the workforce.

12. The AWD program was implemented not only in Defendant but also throughout Exelon’s subsidiaries.

13. Plaintiff received “meets expectations” performance evaluations from his supervisor, Paul Miles, for the 2015 and 2016 work years and received many commendatory comments and awards regarding his work.

14. One of the projects imagined, created and designed by Plaintiff was a Gas

Estimate System (“Gas Estimate System”) that was analyzed by Defendant’s Innovation group and projected to save Defendant approximately 4 million dollars a year. The GES was implemented and activated by Defendant in 2017.

15. Despite Plaintiff’s exceptional work in 2017 as exemplified by the GES, Mr. Miles gave Plaintiff a downgraded “limited impact” rating for 2017 which cost him his bonus for the year.

16. Mr. Miles indicated that Plaintiff’s lower rating was due in large part to an unsubstantiated allegation that had been made about Plaintiff by two female managers that he wrote “terse” emails.

17. On or about February 17, 2018 Plaintiff met with Sabrina Brooks, a black female and Mr. Miles’s supervisor, to discuss among other things his 2017 evaluation. Plaintiff had requested a meeting with Ms. Brooks pursuant to her open door by which employees were told that they could express any question or concern without fear.

18. At his meeting with Ms. Brooks, Plaintiff brought a sheet of notes with abbreviations to guide him in his discussion with Ms. Brooks. At the end of the meeting, Ms. Brooks requested that Plaintiff provide her with his notes, and he did so.

19. The meeting with Ms. Brooks was cordial and went well, and seemingly ended without incident.

20. Nonetheless, Ms. Brooks reported Plaintiff to Corporate Security and indicated that she felt threatened by him at the meeting.

21. In her discussions with Corporate Security, Ms. Brooks said that Plaintiff had told her that he was a “big fan” and “follower” of an individual on social media called “Q” or “Q Anon,” and also that Plaintiff had an unusual personality and struggled to connect with co-

workers. Despite claiming that she was threatened by Plaintiff, Ms. Brooks conceded that Plaintiff did not make any remarks that “directly” threatened her.

22. On Sunday, February 25, 2018 Plaintiff received a call from Corporate Security and was told to not report to his office in the morning but report directly to security.

23. Plaintiff reported to security on Monday, February 26, 2018 and was subjected to an approximately 4 hours of questioning as if he were a criminal, and wherein: he was accused of violent behavior and threatening Ms. Brooks; he was not allowed to leave the room unaccompanied at any time; he was mocked, insulted, and his behavior described as the “creepiest thing” that had ever been seen; he was repeatedly pressured to quit or resign his job in lieu of termination; he had his employee badge, his computer, company credit card and key taken away; and, finally, he was escorted out of the building.

24. Shortly after being escorted off Defendant’s premises Plaintiff had a phone conversation with HR Business Partner, Christopher Smith. Mr. Smith implied that Plaintiff was going to be fired and pressured Plaintiff to resign, telling him that it was still possible for him to leave Defendant on good terms, but that he had to do so “by the end of the day.”

25. Under these circumstances, which included threats of termination and repeated pressure to quit, Plaintiff resigned his employment in lieu of being terminated and having his exemplary career blemished by a termination under the cloud of the false and derogatory claims made against him, and Plaintiff’s resignation constitutes a constructive discharge or termination as a matter of law.

26. During the course of his employment, Plaintiff also applied for transfers and promotions that were given to less qualified non-white and/or female employees, and Defendant also promoted or transferred other co-workers of Plaintiff to a level or position Plaintiff had

expressed interest in without posting for the position or giving Plaintiff an opportunity to apply, including both a Hispanic male and a white female from the same work group as Plaintiff.

27. Plaintiff was terminated under a pretext in order to eliminate a white male from its workforce pursuant to Defendant's AWD program. Plaintiff was also falsely stigmatized as a violent white male and a racist threat, and non-white and/or female employees were treated better than Plaintiff. He therefore believes and avers that Defendant discriminated against him on the basis of his race and/or gender by the above-referenced actions.

28. As a direct and proximate result of Defendant's racial and/or gender discrimination, Plaintiff has in the past incurred, and may in the future incur, a loss of earnings, loss of earning capacity, loss of benefits, emotional distress and anguish, embarrassment, humiliation, pain and suffering, upset, loss of self-esteem, loss of life's pleasures, permanent and irreparable harm and attorney's fees and costs.

COUNT I (§1981)

29. Plaintiff hereby incorporates by reference paragraphs 1 through 28 above as if set forth herein in their entirety.

30. By the above-referenced actions, Defendant violated 42 U.S.C. §1981.

31. As a direct and proximate result of Defendant's violation of §1981, Plaintiff has sustained the injuries, damages and losses set forth herein.

COUNT II (TITLE VII)

32. Plaintiff hereby incorporates by reference Paragraphs 1 through 28 above as if set forth herein in their entirety.

33. The actions of Defendant violated Title VII.

34. As a direct and proximate result of Defendant's violation of Title VII, Plaintiff

has sustained the injuries, damages and losses set forth herein.

COUNT III (PHRA)

35. Plaintiff incorporates herein by reference paragraphs 1 through 28 above as if set forth herein in their entirety.

36. Defendant, by the above discriminatory and wrongful conduct as set forth above, has violated the PHRA.

37. As a direct and proximate result of Defendant's violation of the PHRA, Plaintiff has sustained the injuries, damages and losses set forth herein.

RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court enter judgment in favor of Plaintiff and against Defendant:

(a) Awarding compensatory damages to Plaintiff to make Plaintiff whole for all lost earnings, past and future, which Plaintiff has suffered as a result of Defendant's improper and unlawful treatment, including, but not limited to, past and future wages, lost earning capacity, pension and other lost benefits;

(b) Awarding compensatory damages to Plaintiff for emotional upset, mental anguish, humiliation, injury to reputation, loss of life's pleasures, and pain and suffering;

(c) Awarding Plaintiff punitive damages;

(c) Awarding Plaintiff costs of this action, together with reasonable attorney's fees;

(d) Granting or awarding Plaintiff reinstatement to an appropriate position with Defendant; and,

(f) Declaring Defendant's actions to be in violation of 42 U.S.C. §1981, Title VII and the PHRA, and awarding such further relief as available to Plaintiff and as the court deems

appropriate.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Mark S. Scheffer", written over a horizontal line.

Mark S. Scheffer, Esquire